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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,062	03/22/2007	Seung June Song	4466-0103PUS1	9642
2292 7590 10/09/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER CHERIYAN JR, THOMAS K				
ART UNIT 3714		PAPER NUMBER		
NOTIFICATION DATE 10/09/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

### Office Action Summary

**Application No.**

10/562,062

**Applicant(s)**

SONG, SEUNG JUNE

**Examiner**

THOMAS K. CHERIYAN JR

**Art Unit**

3714

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-893)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 12/22/2005

### DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-33 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Walker (2001/0004609 A1) in view of Massey (US 2004/0248652 A1).

Regarding claim 1, Walker discloses a method for an on-line game tournament which determines participant's competition by tournament and a prize money by winning number comprising the steps of:

(a) an available participant decision step for deciding whether a user connected through a communication network who selects a game is allowed to participate in a tournament for the game in accordance with a record of availability/unavailability for the tournament for the game in respect of the user (**Obvious. Walker, Abstract, and Figure 2. Looking at Figure 2, it would be obvious that the player would be available in order to compete with other competitors since it teaches using a database to store player records, therefore storing whether a player was/is available or not.**).

(b) a tournament participation step for recording availability and bestowing an initial level and credit for the tournament for the game in respect of the user if a participation fee is settled in connection with the user if the user is decide to be an unavailable participant in the available participant decision step **(Applicant is simply claiming a type of refund for a player if a player is unable to participate in the tournament after paying a participation fee, which would be obvious. People returning items or for services not used has been well known in the art for hundreds and if not, thousands of years as well as the people providing services offering types of store credit or full refunds.);**

(c) a challenging competitor decision step for deciding a challenging competitors who compete with the participant for the game from the other available participants on the same level who are not processing the game **(Obvious. The concept of having a tournament is so that players can compete with each other and eventually the best players will be competing with each other at the top level.);**

(d) a winner and loser treatment step for increasing the level of a winner by one and transferring a certain rate of credit from a loser to the winner, and deciding a prize money of the loser according to the loser's present credit after transferring a certain rate of credit from the loser to the winner and recording unavailability for the game tournament in respect of the loser, which terminates the participation if the game processes and concludes between the competitors

(e) a winner participation decision step for checking whether the winner wants further participation for the tournament for the game **(Obvious. Entering into a**

**tournament inherently has a certain number of levels based on the type of game and the number of players playing in the tournament. The tournament is only complete when one person or teams is able to defeat all the opponents. After the player wins, it would be the player's option to enter into another tournament or not.)**

(f) a continuous participation step for processing procedures including the steps from (c) to (e) if the winner is checked to want the further participation in the winner participation decision step (**Obvious**); and

(g) a winner's prize money decision step for deciding a prize money of the winner according to the present credit and recording unavailability for the game tournament in respect of the winner, which terminates the participation, if the winner checked not to want the further participation in the winner participation decision step (**Obvious**).

Walker doesn't explicitly disclose what happens in claim 1(d) but Massey et al does (**Inherent. Massey, Abstract, Paragraphs 0027 and Paragraph 0061.**).

The motivation for combining the teachings of Massey with Walker is because Massey's specific features can be used in conjunction with tournament style games. Specifically, Massey discloses awarding a winner x amount of money and the loser y amount of money depending on the size of the total prize, where the total prize size obviously reflects the level of competition the players are competing at.

Therefore, it would be obvious to anyone skilled in the art of gaming at the time of the invention to combine the teachings of Massey with Walker to award a winner and

loser in a tournament style game a type of award based on the level the players are competing at.

Regarding claim 2, Walker and Massy discloses the challenging competitor decision step comprises the steps of:

(a) a making challenge step for searching and displaying the other available participants who are not processing the game as a competing counterparts from the other available participants for the tournament for the game and delivering a challenge to a counterpart if one of the available participant requests the challenge to compete with the game to one of the competing counterparts (**Obvious, Massy, Figure 3 teaches the ability for a person to randomly challenge someone. It would also be obvious then for a player to specifically challenge someone as well. It should be noted that once entered into a tournament style game, competitors are usually not given the option to challenge other teams since the person/organizing the tournament usually decides randomly or by choice which players are competing with who first.**); and

(b) a competitor decision step for, if the counterpart accepts the challenge, deciding the challenger and the acceptor as competitors for the game (**Obvious in view of Massy and Walker, Abstract and Summary of Invention.**).

Regarding claim 3, Walker and Massy discloses the challenging competitor decision step comprises a step for searching for the participants on the same level who are not progressing the game, and randomly or successively appointing the competitor from them (**Obvious, Massy, Figure 3 teaches the ability for a person to randomly**

**challenge someone. It would also be obvious then for a player to specifically challenge someone as well. Figure 4 teaches the use of a "Ladder" which ranks players based on there win/lose ratio. It would also be obvious in this case that a player can challenge a person who is at the same, higher, or lower level to compete in a game tournament. Walker, Paragraph 0045 teaches the concept of searching for player records in a database to see if it exists, it would also be obvious to conduct a comparison while searching to see if a player is at a comparable level.).**

Regarding claim 4, Walker and Massy discloses the winner and loser treatment step comprises a host fee processing step for transferring a certain ratio of the credit of the winner and the loser to an tournament-host side **(Obvious. Massy, Figure 2 discloses that a game fee is issued to a player before selecting a game to play. It would be obvious to issue certain fees before, during, or after game play as well. Walker, Abstract also teaches about using fees to charge game players. It should be noted that this is also common in Poker games played in Casinos, the common term being known as a "rake" where the Casino charges a game fee of 5% to 10% of the pot in each poker hand.).**

Regarding claim 5, Walker and Massy discloses the making challenge step comprises the steps of:

(a) a same level participant decision step for deciding whether other available participants on the same level exist **(Obvious. Massey, Figure 4 clearly shows whether other participants of the same level exist. Walker also teaches the ability**

**to search for participants with the ability of being obvious to filter for participants that are on the same level.);**

(b) a same level competitors display step for searching the participants who are not processing the game from the available participants on the same level if it is decided that other available participants on the same level exist in the same level participant decision step and displaying them **(Obvious. Common logic dictates that only available people can be involved in a tournament.);** and

(c) a challenge delivery step for delivering the challenge to the counterpart-participant if one of the participants challenges to one from the displayed participants **(Obvious. Massey, Figure 3 shows a challenge delivery system.).**

Regarding claim 6, Walker and Massy discloses the winner and loser treatment step further comprises a step for deciding whether the winner reaches to a top limit level and processing the winner's prize money decision step if the level of winner is the top limit level **(Obvious. In a tournament system, usually one person or team defeats all the opponents entered into the tournament and wins and is therefore, at the top. The prize money therefore is obviously given towards the top winner.).**

Regarding claim 7, Walker and Massy discloses the method for an on-line game tournament which determines participant's competition by tournament and a prize money by winning number as recited in claim 5 further comprising the steps of:

(a) an upper level participant decision step for deciding whether the available participants on the upper level exist if it is decided that other available participants on the same level do not exist in the same level participant decision step **(Obvious. The**



**tournament wouldn't be able to proceed otherwise if competitors on the bottom of the tournament bracket didn't wait till all finished to compete with other competitors on the next level.);**

(b) an upper level participant display step for displaying the available participants on the upper level if it is decided that other available participants on the upper level exist in the upper level participant decision step **Obvious. If you are able to progress through a tournament, it would be obvious to decrease through a tournament as well.);**

(c) a level up by compensation step for rising up the present level to the upper level corresponding to one of the displayed upper levels of the available participants on the upper level if the participant pays an amount of money corresponding to the level difference **(Obvious. Tournament style poker for example forces players to increase the size of their "bank" or "pool of money" that must start off with while progressing through the tournament as well as increasing the initial size bets while playing.);** and

(d) a return step for returning to the same level participant decision step if the level is risen up in the level up by compensation step **(Obvious. If you are able to progress through a tournament, it would be obvious to decrease through a tournament as well.).**

Regarding claim 8, Walker and Massy discloses the method for an on-line game tournament which determines participant's competition by tournament and a prize money by winning number as recited in claim 7 further comprising the steps of:

(a) a further participation check step for checking whether the participant want the further participation if it is decided that other available participants on the upper level do not exist in the upper level participant decision step **(Obvious. If on the tournament bracket, there is no one above the participant for the participant to compete with, then it would be obvious that the participant would no longer need to participate.);**

(b) a return step for returning to the same level participant decision step if the participant is checked to want the further participation **(Obvious. If you are able to progress through a tournament, it would be obvious to decrease through a tournament as well.);** and

(c) a return step for returning to the winner's prize money decision step if the participant is checked not to want the further participation **(Obvious. If you are able to progress through a tournament, it would be obvious to decrease through a tournament as well.).**

Regarding claim 9, Walker and Massey disclose the method for an on-line game tournament which determines participant's competition by tournament and a prize money by winning number as recited in claim 8 further comprising a top rank display step for displaying the top rank for the participant if it is decided that other available participants on the upper level do not exist in the upper level participant decision step **(Massey, Figure 4 clearly shows a top rank display. It would also be obvious in view of Massey to display the top rank for the participant if it is decided that other**

**available participants on the upper level do not exist in the upper level participant step.).**

Regarding claim 10, Walker and Massey disclose comprising a step for deciding whether the game is allowed for the level-up by compensation if it is decided that other available participants on the upper level exist in the upper level participant decision step and processing the upper level participant display step if the game is allowed for the level-up by compensation **(Obvious. If other participants exist in the upper level participant decision step, then it would be obvious for those upper participants to compete with each other.).**

Regarding claim 11, Walker and Massey disclose further comprising a step for deciding whether the level risen up by the level-up by compensation of the participant is within allowable range and processing the level up by compensation if the level-up by compensation of the participant is within allowable range **(Obvious. If other participants exist in the upper level participant decision step, then it would be obvious for those upper participants to compete with each other.).**

Regarding claims 12-33, please refer to arguments in claims 1-12.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas K. Cheriyan whose telephone number is 571-270-3225. The examiner can normally be reached on Mon-Fri 7:30AM-5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/

Supervisory Patent Examiner, Art Unit 3714